

Memorandum

TO: David E. Heisler, Esquire
Edward A. Monsky, Esquire

FROM: Judge Edwin M. Kosik

DATE: August 30, 2005

SUBJECT: Patricia Mullen, et al. v. Joseph Ault
MDPA; Civil Number 3:CV-04-1740

The court previously ruled and denied defendants' motion to dismiss plaintiff's claims for punitive damages, Doc. 6, Order of 11/09/04.

By this memorandum, we will deny defendants motion in limine to preclude earnings loss claims of plaintiff for failing to provide appropriate discovery. We deny the motion because plaintiff's response indicates the discovery has been provided. There has been no reply to the response.

The defendant's motion in limine with regard to the issue of drinking intoxicating beverages is denied because it is premature. Such evidence standing alone will be precluded. However, if it is offered in conjunction with other evidence and circumstances establishing intoxication and outrageous conduct, it may be admitted at trial. See the deposition of Robert K. McCool.

EMK:mb